

**TOWN OF  
APPLE VALLEY, CALIFORNIA**

**AGENDA MATTER**

**Subject Item:**

**ADOPT ORDINANCE No. 401, AN AMENDMENT TO TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE BY AMENDING VARIOUS SECTIONS OF THE CODE AS THEY RELATE TO THE PROCESSING OF A CONDITIONAL USE PERMIT APPLICATION FOR A PROJECT ANYWHERE WITHIN THE TOWN OF APPLE VALLEY. THE PROPOSED AMENDMENT REMOVES ALL REFERENCES TO THE MINOR CONDITIONAL USE PERMIT APPLICATION PROCESS WITHIN CODE SECTIONS 9.16 "CONDITIONAL USE AND SPECIAL USE PERMITS", 9.28 "RESIDENTIAL DISTRICTS", 9.35 "COMMERCIAL AND OFFICE DISTRICTS" AND 9.45 "INDUSTRIAL DISTRICTS".**

**Summary Statement:**

At its meeting of October 13, 2009, the Town Council reviewed and introduced Ordinance No. 401, amending Title 9 "Development Code" of the Town of Apple Valley Municipal Code, by amending various sections of the Code as they relate to the processing of a Conditional Use Permit application for a project anywhere within the Town of Apple Valley. The proposed amendment removes all references to the Minor Conditional Use Permit application process within Code Sections 9.16 "Conditional Use and Special Use Permits", 9.28 "Residential Districts", 9.35 "Commercial and Office Districts" and 9.45 "Industrial Districts".

**Recommended Action:**

Adopt Ordinance No. 401.

**Proposed by:**           Planning Division          

**Item Number** \_\_\_\_\_

**Town Manager Approval:** \_\_\_\_\_

**Budget Item**  Yes  No  N/A

## ORDINANCE No. 401

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DETERMINING THAT DEVELOPMENT CODE AMENDMENT No. 2009-007 IS EXEMPT FROM FURTHER ENVIRONMENTAL REVIEW AND AMEND TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING SECTIONS VARIOUS SECTIONS OF THE CODE AS THEY RELATE TO THE PROCESSING OF A CONDITIONAL USE PERMIT APPLICATION FOR A PROJECT ANYWHERE WITHIN THE TOWN OF APPLE VALLEY. THE PROPOSED AMENDMENT REMOVES ALL REFERENCE TO MINOR CONDITIONAL USE PERMIT APPLICATION PROCESS WITHIN CODE SECTIONS 9.16 "CONDITIONAL USE AND SPECIAL USE PERMITS", 9.28 "RESIDENTIAL DISTRICTS", 9.35 "COMMERCIAL AND OFFICE DISTRICTS" AND 9.45 "INDUSTRIAL DISTRICTS".**

The Town Council of the Town of Apple Valley, State of California, does hereby ordain as follows:

### **Section 1. Recitals.**

(i) Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley was adopted by the Town Council on October 24, 2000; and

(ii) Title 9 "Development Code" of the Municipal Code of the Town of Apple Valley has been previously modified by the Town Council on the recommendation of the Planning Commission; and

(iii) Specific changes are proposed to Title 9 "Development Code" of the Town of Apple Valley Municipal Code by amending Sections 9.16 "Conditional Use and Special Use Permits", 9.28 "Residential Districts", 9.35 "Commercial and Office Districts" and 9.45 "Industrial Districts", regarding creating a minor conditional use permit application process for residential, commercial and industrial zoned property anywhere within the Town of Apple Valley; and

(iv) On October 2, 2009, Development Code Amendment No. 2009-007 was duly noticed in the Apple Valley News, a newspaper of general circulation within the Town of Apple Valley; and

(v) Based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be seen with certainty that Development Code Amendment will not have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review; and

(vi) On September 2, 2009, the Planning Commission of the Town of Apple Valley conducted a duly noticed and advertised public hearing on Development Code Amendment No. 2009-007, receiving testimony from the public; and

(vii) Development Code Amendment No. 2009-007 is consistent with Title 9 (Development Code) of the Municipal Code of the Town of Apple Valley and shall promote the health, safety and general welfare of the citizens of the Town of Apple Valley.

**Section 2. Findings.**

(i) Find that the changes proposed by Development Code Amendment No. 2009-007 are consistent with the Goals and Policies of the Town of Apple Valley adopted General Plan.

(ii) Find that, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), it can be seen with certainty that the proposed Development Code Amendment No. 2009-007 is not anticipated to have a direct, adverse impact upon the environment and, therefore, is EXEMPT from further environmental review.

**Section 3.** Amend Subsection “A. Purpose and General Plan Consistency” and “B. Conditional Use Permits” of Section 9.16.010 “Purpose and General Plan Consistency” of Chapter 9.16 “Conditional and Special Use Permits” of the Town of Apple Valley Development Code to read as follows:

**A. Purpose and General Plan Consistency.** The purpose of the Conditional and Special Use Permit process is to create flexibility necessary to achieve the goals and objectives of the General Plan by providing a discretionary process to consider certain uses which have the potential to adversely impact surrounding property or the general public. Special review of such uses is necessary and specific conditions may be necessary to insure that the uses are operated and located property with respect to their effects on surrounding properties and so that any potentially adverse impacts can be mitigated. The Use Permit process provides the means to achieve this purpose.

**B. Conditional Use Permits**

1. The Conditional Use Permit process affords an opportunity for broad public review, to provide adequate mitigation of any potentially adverse impacts, and to ensure that all site development regulations and design standards of this Development Code are adhered to.
2. The Conditional Use Permit procedure allows the Town to evaluate whether the permit should be approved by weighing the proposed use and the public need for, and the benefits to be derived from, the use against the impacts it may cause.
3. For the purpose of differentiating between uses with limited potential to adversely affect surrounding uses or the general public and other uses with greater potential to create adverse impacts, and to expedite the permit process for those uses with limited potential, this Chapter establishes the Conditional and Special Use Permit procedures as described in Section 9.16.020 below.

**Section 4.** Amend Subsection “A. Use Permits” and “B. Conditional Use Permit Type Designated in Use Charts” of Section 9.16.020 “Applicability” of Chapter 9.16 “Conditional and Special Use Permits” of the Town of Apple Valley Development Code to read as follows:

**A. Use Permits.** Use permits are hereby established in order to achieve the purpose of this Chapter and to expedite the permit process.

1. **Special Use Permits.** Special Use Permit provisions shall apply to those uses identified in the permitted use charts for the various zoning districts which require such permits.

2. **Conditional Use Permits.** Required for conditional uses which have the potential to conflict with the Performance Standards contained in Chapter 9.70 of this Code and which therefore require broader public review and discussion to determine their appropriateness.

For both Conditional Use Permits and Special Use Permits, the findings required in this Chapter shall be made before approval.

- B. Conditional Use Permit Type Designated in Use Charts.** Conditional Use Permits shall be required for those uses identified as such in the use charts of the regulations for the individual zoning districts. Should the use of an existing structure be changed to one of the uses in said use charts requiring a Conditional Use Permit, the indicated Conditional Use Permit must be obtained.

**Section 5.** Amend Subsection “A. Conditional Use Permits” of Section 9.16.030 “Authority” of Chapter 9.16 “Conditional and Special Use Permits” of the Town of Apple Valley Development Code to read as follows:

- A. Conditional Use Permits.** The Planning Commission is authorized to approve, approve with conditions, or deny applications for Conditional Use Permits in compliance with the procedures established in this Chapter and Chapters 9.12 and 9.13, *Permit Process and Approvals* and *Public Hearings and Notice*, of this Code, respectively. In approving an application for a Conditional Use Permit, the Commission may impose conditions to ensure compliance with this Code. Conditions may include, but shall not be limited to, requirements for special structure setbacks, open spaces, buffers, fences, walls and screening, requirements for installation and maintenance of landscaping, erosion control measures; requirements for street and other infrastructure improvements and related dedications, regulation of vehicular ingress and egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; compatibility with surrounding uses, to preserve the public health, safety and welfare, and to enable the Commission to make the findings required by Section 9.16.090, *Required Findings*, of this Chapter.

**Section 6.** Amend Section 9.16.060 “Investigation and Report” of Chapter 9.16 “Conditional and Special Use Permits” of the Town of Apple Valley Development Code to read as follows:

**9.16.060 Investigation and Report**

Each Application for a Use Permit shall be analyzed to assure that the application is consistent with the content, intent and purpose of the General Plan, this Code, and any other applicable Town standards or policies. To insure effective implementation of General Plan policies and the provisions of the Code, each application for a Use Permit shall be reviewed by the Director prior to consideration by the Commission. The Planning Division shall make an investigation and prepare a report. This report shall include a listing of conditions necessary to assure the preservation of public health, safety and welfare should the proposed project be approved.

**Section 7.** Amend Section 9.16.080 “Planning Commission Action/Public Hearing Required” of Chapter 9.16 “Conditional and Special Use Permits” of the Town of Apple Valley Development Code to read as follows:

**9.16.080 Planning Commission Action/Public Hearing Required**

The Commission shall hold a public hearing on each application of a Use Permit it reviews pursuant to Chapter 9.12 of this Code, *Permit Process and Approvals*. The hearings shall be set and notice shall be given as prescribed in Chapter 9.13 of this Code, *Public Hearings and Notice*. The applicant shall be provided with a copy of the Planning Division’s report regarding their application, prior to the public hearing. The Commission shall approve, deny or conditionally approve applications for Use Permits. Planning Commission decisions may be appealed to the Town Council as provided in Chapter 9.12, Section 9.12.250, *Appeals*, of this Code.

**Section 8.** Amend Subsection “A.” of Section 9.16.090 “Required Findings” of Chapter 9.16 “Conditional and Special Use Permits” of the Town of Apple Valley Development Code to read as follows:

- A. Before approving a Special or Conditional Use Permit, the Director, Commission or Council when appropriate, shall find that the circumstances prescribed below do apply:
  - 1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;
  - 2. That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;
  - 3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;
  - 4. That there are public facilities, services and utilities available at the appropriate levels or that these will be installed at the appropriate time to serve the project as they are needed;
  - 5. That there will not be a harmful effect upon desirable neighborhood characteristics;
  - 6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;
  - 7. The traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;
  - 8. That there will not be significant harmful effects upon environmental quality and natural resources;
  - 9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated.
  - 10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public

health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan.

11. That the proposed conditional use will comply with all of the applicable provisions of this title.
12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;
13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;
14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures; and
15. That access to the site and circulation on- and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

**Section 9.** Amend Subsection “A.” and “B.” of Section 9.16.100 “Lapse of Permits/Expiration” of Chapter 9.16 “Conditional and Special Use Permits” of the Town of Apple Valley Development Code to read as follows:

**9.16.100 Lapse of Permits/Expiration**

- A. A Use Permit shall lapse and become void three (3) years following the date on which the use permit was approved, unless:
  1. A building permit is issued and construction is commenced and diligently pursued; or
  2. A certificate of occupancy is issued; or
  3. If no certificate of occupancy is required, the site is occupied in accordance with the approved Conditional Use Permit.
- B. A Use Permit shall expire if one of the following occurs:
  1. The use, business, or service for which the Conditional Use Permit was issued terminates or ceases operation for a continuous period of time in excess of one (1) year; or
  2. The operation is discontinued or ceased because of destruction or damage by acts of God or by malicious acts and repair of the damaged facility has not commenced within two (2) years of the date of the destructive act.

**Section 10.** Amend Subsection “B. Revocation” and “C. Required Findings” of Section 9.16.130 “Applicability” of Chapter 9.16 “Conditional and Special Use Permits” of the Town of Apple Valley Development Code to read as follows:

**9.16.130 Review and Revocation**

- B. **Revocation.** The Commission may hold a hearing to revoke or modify a Use Permit in compliance with the provisions in this Chapter. At least ten (10) days prior to the hearing, notice shall be given in accordance with Chapter 9.13, *Public Hearings and Notice*, of this

Code, and shall be delivered in writing to the applicant and/or owner of the property for which such Use Permit was granted. Notice shall be deemed delivered two (2) days after being mailed, first class postage, to the owner as shown on the current tax rolls of the County of San Bernardino, and/or the project applicant.

- C. Required Findings.** A Conditional Use Permit may be revoked or modified by the Planning Commission, or a Special Use Permit by the Director, if any one (1) of the following findings can be made:
1. That circumstances have changed so that one (1) or more of the findings contained in Section 9.16.090, Required Findings, of this Chapter, can no longer be made;
  2. That the Use Permit was obtained by misrepresentation or fraud;
  3. That the use for which the Use Permit was granted had ceased or was suspended for one hundred eight (180) calendar days or longer;
  4. That one (1) or more of the conditions of the Use Permit have not been met;
  5. That the use is in violation of any applicable statute, ordinance, law, or regulation; or
  6. That the use permitted by the Use Permit is detrimental to the public health, safety or welfare, or constitutes a nuisance.

**Section 11.** Amend Subsection “A. Residential Uses”, “B. Agricultural and Animal Uses”, “C. Public and Semi-Public Uses”, “E. Other Uses” and “G. Accessory Uses and Structures” of Section 9.28.030 “Permitted Uses” of Chapter 9.28 “Residential Districts” of the Town of Apple Valley Development Code to read as follows:

#### **9.28.030 Permitted Uses**

If a proposed use is not listed in this Section, the Director shall, upon written request and in accordance with Section 9.05.070 *Similar Uses*, of this Code, review the proposed unlisted use. Based on the characteristics of the proposed use, the Standard Industrial Classification Manual and other available resources, the Director may determine that the proposed unlisted use is equivalent in nature and intensity to a listed use. The proposed use shall then be treated in the same manner as the equivalent listed use in determining where it can be located, what permits are required and what standards affect its establishment if the findings required in Section 9.05.070 *Similar Uses*, of this Code, can be made.

#### **ABBREVIATIONS**

R-VLD Very Low Density Residential

R-A Residential Agriculture

R-LD Low Density Residential

R-E Estate Residential

R-EQ Equestrian Residential

R-SF Single Family Residential

R-M Multi-Family Residential

PRD Planned Residential Development

The uses listed in Table 9.28.030-A shall be allowed in the Residential districts as indicated in the column beneath each district and as defined below.

SUP: Subject to Special Use Permit process, Department review

CUP: Subject to Conditional Use Permit process, Planning Commission review.

P: Permitted Uses.

"-": Denotes those uses that are prohibited.

The Conditional and Special Use Permit and processes are detailed in Chapter 9.16 and the Development Permit process is detailed in Chapter 9.17 of this Code.

The uses listed in Table 9.28.030-A below apply to applications for expansion, tenant improvements, change of occupancy or new development.

**TABLE 9.28.030-A PERMITTED USES**

TYPE OF USE	DISTRICT <sup>1</sup>							
	R-VLD	R-A	R-LD	R-E	R-EQ	R-SF	R-M	PRD <sup>2</sup>

**A. Residential Uses**

1. Small residential care facilities, community care facilities, senior housing, intermediate care of six (6) or less and licensed by State;	P	P	P	P	P	P	P	P
Large residential care facilities, community care facilities, senior housing, intermediate care of seven (7) or more State licensed facilities;	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
2. Group homes not licensed by the state with two (2) or more residents.	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Group homes not licensed by the State with two (2) or more unrelated sexual offenders or probationers.	-	-	-	-	-	-	-	-
3. Parolee Home of two (2) or more unrelated parolees	-	-	-	-	-	-	-	-
4. Handicapped residential care facilities	P	P	P	P	P	P	P	P
5. Large family day care homes (9 to 14 children)	P	P	P	P	P	P	P	P
6. Manufactured homes	P	P	P	P	P	P	P	P
7. Mobile home parks	-	-	-	-	-	-	CUP	CUP
8. Multi-family housing								
1-15 units	-	-	-	-	-	-	P	P
16-50 units	-	-	-	-	-	-	P <sup>(3)</sup>	P <sup>(3)</sup>
51 and above	-	-	-	-	-	-	CUP	CUP
9. Single family residences	P	P	P	P	P	P	P	P



TYPE OF USE	DISTRICT <sup>1</sup>							
	R-VLD	R-A	R-LD	R-E	R-EQ	R-SF	R-M	PRD <sup>2</sup>
10. Small family day care facilities (8 or fewer children)	P	P	P	P	P	P	P	P
<b>B. Agricultural and Animal Uses</b>								
1. 4-H or FFA animal raising and/or keeping	P	P	P	P	P	P	-	SUP
2. All types of horticulture (4)	P	P	P	P	P	P	-	CUP
3. Keeping of bee hives	1 hive per 13500 sf	1 hive per 13500 sf	1 hive per 13500 sf	-	-	-	-	-
4. Equestrian Stables and Arenas	P	P	P	CUP	CUP	-	-	-
5. Dogs and cats as follows: Up to 1 dog or 1 cat Up to 4 dogs <sup>6, 7, 12</sup> Up to 4 cats <sup>7, 12</sup>	P P P	P P P	P P P	P P P	P P P	P P P	P <sup>5</sup> - -	- P P
6. Exotic Animals	SUP	SUP	SUP 2 max	SUP 2 max	SUP 2 max	-	-	P
7. Exotic Birds (8)	SUP	SUP	SUP 2 max	SUP 2 max	SUP 2 max	-	-	P
8. Farm cattle and other bovine	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per lot	1 per lot	-	-	-
9. Horses and other equine	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	1 per 9000 sf	-	-	P
10. Llamas and alpaca	1 per 4500 sf	1 per 4500 sf	1 per 9000 sf	1 per lot	1 per lot	-	-	P
11. Kennels, non-commercial	CUP	CUP	CUP	CUP	CUP	-	-	-
12. Ostriches, emus, rheas, kivis or other ratite	1 per 9000 sf	1 per 3000 sf	1 per 9000 sf	-	-	-	-	-
13. Pigs or other swine	P	P	1 per 9000 sf	1 per lot	-	-	-	-
14. Poultry and other fowl <sup>8</sup>	P	P	1 per 1800 sf	5 max + 1 male	5 max + 1 male	5 max + 1 male	-	P
15. Rabbits	P	P	1 per 1800 sf	Total of 6	Total of 6	Total of 6	-	P
16. Racing and/or Homing Pigeons <sup>11</sup>	P	P	P	P	P	P	-	-
17. Sale of agricultural products	P	P	P	-	-	-	-	P
18. Sheep, goats and other ovine	1 per 3000 sf	1 per 3000 sf	1 per 4500 sf	2 per lot	2 per lot	-	-	P

TYPE OF USE	DISTRICT <sup>1</sup>							
	R-VLD	R-A	R-LD	R-E	R-EQ	R-SF	R-M	PRD <sup>2</sup>
19. Small domestic animals kept as household pets	P	P	P	P	P	P	P	P

**C. Public and Semi-Public Uses**

1. Child care centers 15 or greater, other than family day care homes	CUP	CUP	CUP	CUP	-	-	-	CUP
2. Churches, convents, and religious institutions <sup>13</sup>	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
3. Educational institutions, private schools	CUP	-	CUP	CUP	-	-	-	CUP
4. Private recreational facilities, including, but not limited to, country clubs, tennis and swim clubs, golf courses, racquetball and handball facilities, YMCA, YWCA, and limited commercial uses commonly associated with and directly related to these primary uses	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
5. Public Schools	P	P	P	P	P	P	P	P
6. Public services facilities such as libraries, parks, recreation facilities and other civic uses	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
7. Public utility and public service substations, reservoirs, pumping plants; not including utility offices	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
8. Places of Assembly <sup>13</sup>	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
9. Convalescent Home	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP

**D. Home Occupations**

1. Home occupations <sup>9</sup>	P	P	P	P	P	P	P	P
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**E. Other Uses**

1. Cemetery	CUP	-	CUP	CUP	CUP	CUP	CUP	CUP
2. Fire or Police station	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
3. Fraternity & Sorority <sup>10</sup>	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
4. Interim Recreational Uses	CUP	CUP	CUP	-	-	-	-	-

**F. Visitor Accommodations**

1. Bed and breakfast inns with six (6) beds or less	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP
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**G. Accessory Uses and Structures**

1. Antennas and satellite dishes	P	P	P	P	P	P	P	P
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TYPE OF USE	DISTRICT <sup>1</sup>							
	R-VLD	R-A	R-LD	R-E	R-EQ	R-SF	R-M	PRD <sup>2</sup>
2. Nonhabitable accessory structures	P	P	P	P	P	P	P	P
3. Off campus dormitory	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
4. Private recreational courts with exterior lighting and/or recreational fencing over six (6) feet in height	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
5. Private swimming pools and accessory equipment	P	P	P	P	P	P	P	P
6. Second dwelling units and guest quarters	SUP	SUP	SUP	SUP	SUP	SUP	-	SUP
7. Water Storage tanks less than 5,000 gallon more than 5,000 gallons	P CUP	P CUP	P CUP	P CUP	P CUP	P CUP	- -	P CUP
8. Liquid, petroleum or Gas (LPG) Tanks not exceeding 200 gallons	P	P	P	P	P	P	P	P
9. Unlighted private recreational courts	P	P	P	P	P	P	P	P
<b>H. Temporary Uses</b>								
1. Temporary Uses (Chapter 9.23)	P	P	P	P	P	P	P	P

1. CUP: Conditional Use Permit  
P: Permitted Uses  
SUP: Special Use Permit  
(-): Denotes uses are prohibited
2. Uses permitted in a PRD development shall be consistent with the approved PRD. Uses not prescribed by an approved PRD shall be prohibited.
3. Requires Planning Commission approval of a Development Permit.
4. These uses are permitted subject to compliance with the provisions of Chapter 9.19, *Home Occupation Permits*, of this Code.
5. Maximum permitted per unit. Pot belly pigs are not permitted in the RM district.
6. Female or neutered male pot belly pigs (not to exceed four {4}) are permitted in accordance with Section 9.29.030 of the Apple Valley Municipal Code.
7. Excess of four (4), not to exceed a combined total of eight (8) dogs and cats, requires an Animal Control Permit and that all animals be spayed or neutered.
8. Except peafowl are permitted only in R-A.
9. Requires a Home Occupation Permit.
10. Only permitted when located within 1/8 mile of the affiliated school.
11. Homing and/or racing pigeons are permitted subject to compliance with the provisions of Section 9.29.030 "Animal Keeping and Agricultural Uses in Residential Districts" of this Code.
12. Single-Family Residences within the R-M Zoning District shall be subject to the same maximum number of dogs and cats as a single-family residence within the R-SF Zoning.
13. Regulations for Churches and Places of Assembly in Subsection 9.29.050 shall apply.

**Section 12.** Amend Subsection "A. Residential Uses", "C. Commercial Uses", "D. Public and Semi-Public Uses" and "E. Accessory Uses" of Section 9.35.030 "Permitted Uses" of

Chapter 9.35 “Commercial and Office Districts” of the Town of Apple Valley Development Code to read as follows:

**9.35.030 Permitted Uses**

If a proposed use is not listed in this Section, the Director shall, upon written request and in accordance with Section 9.05.070, *Similar Uses*, of this Code, review the proposed unlisted use. Based on the characteristics of the proposed use, the "Standard Industrial Classification Manual" and other available resource material, the Director may determine that the proposed unlisted use is equivalent in nature and intensity to a listed use. The proposed use shall then be treated in the same manner as the equivalent listed use in determining where it can be located, what permits are required and what standards affect its establishment if the findings required in Section 9.05.070, *Similar Uses*, of this Code, can be made.

**ABBREVIATIONS**

- O-P Office Professional
- C-G General Commercial
- C-S Service Commercial
- C-R Regional Commercial
- C-V Village Commercial

The uses listed in Table 9.35.030-A shall be allowed in the Commercial and Office Districts as indicated in the column beneath each District as defined below and review authority explained in Section 9.11.020, Table 9.11.020-A.

- CUP: Conditional uses, subject to Conditional Use Permit process, Planning Commission review
- SUP Special Use Permit
- P: Permitted uses
- "-": Denotes those uses that are prohibited

The Conditional Use Permit and Special Use Permit process is detailed in Chapter 9.16 and the Development Permit process is detailed in Chapter 9.17 of this Code.

The uses listed in Table 9.35.030-A of this Chapter, below, apply to applications for expansion, tenant improvements, change of occupancy, or new development.

**Table 9.35.030-A Permitted Uses**

TYPE OF USE <sup>(1)</sup>	DISTRICT <sup>(2)</sup>				
	O-P	C-G	C-S	C-R	C-V
<b>A. Residential Uses</b>					
1. Caretakers residence	SUP	SUP	SUP	SUP	SUP
2. Congregate care facilities (Senior Housing)					
Up to 19 persons	CUP	CUP	CUP	CUP	CUP
20 or more persons	CUP	CUP	CUP	CUP	CUP
3. Emergency shelters/transitional housing <sup>(3)</sup>	-	-	SUP	-	-
<b>B. Office and Related Uses</b>					
1. Administration and professional office	P	P	P	P	P

TYPE OF USE <sup>(1)</sup>	DISTRICT <sup>(2)</sup>				
	O-P	C-G	C-S	C-R	C-V
2. Administration and professional office within a shopping center:					
a. More than ten (10) percent of the overall gfa of the ground floor of the shopping center	-	CUP	CUP	CUP	CUP
b. Located on the second floor of the shopping center	-	P	P	P	P

**C. Commercial Uses**

1. Commercial retail uses such as clothing, food, gifts, studios, services and other similar uses.	-	P	P	P	P
2. Adult businesses	-	CUP	-	-	-
3. Alcoholic Beverage Sales					
a. Liquor stores, no on-site consumption	-	P	P	P	P
b. Convenience stores, no on-site consumption	SUP	P	P	P	P
c. Grocery Stores, no on-site consumption	-	P	P	P	P
d. Restaurants, on-site consumption	SUP	P	P	P	P
e. Taverns, bars, on-site consumption	-	CUP	CUP	CUP	CUP
4. Animal care facility, including animal hospital veterinarian, commercial kennel, grooming					
a. Excluding exterior kennel, pens or runs	-	P	P	-	P
b. Including exterior kennel, pens or runs	-	CUP	CUP	CUP	CUP
5. Arcades	-	SUP	SUP	SUP	SUP
6. Automotive services, including motorcycles, boats, motorhomes, trailers, and campers					
a. Gasoline stations and/or Carwash	-	SUP	SUP	SUP	SUP
b. Major repairs, including engine work, painting, body work, and upholstery	-	-	CUP	-	CUP
c. Minor repairs including such as smog check, tune-ups, tires, brakes, batteries, mufflers	-	CUP	CUP	CUP	CUP
7. Carpenter or cabinet shop	-	-	P	-	P
8. Catering establishments	-	P	P	P	P
9. Mortuary, cremation service	-	CUP	CUP	-	CUP
10. Child day care center	SUP	SUP	SUP	SUP	SUP
11. Commercial recreation facilities including:					
a. Health clubs	SUP	P	P	P	P
b. Indoor uses such as bowling, billiards, or theaters	-	P	P	P	P
c. Outdoor uses such as golf, tennis, basketball, baseball, family amusement centers	-	CUP	CUP	CUP	CUP
12. Communications and cable television facilities.	CUP	CUP	CUP	-	CUP
13. Concessionaire, small kiosks not located in a parking lot.	-	P	-	P	P
14. Convenience stores	SUP	P	P	P	P
15. Drive-thru/drive up	SUP	SUP	SUP	SUP	SUP

TYPE OF USE <sup>(1)</sup>	DISTRICT <sup>(2)</sup>				
	O-P	C-G	C-S	C-R	C-V
16. Feed and tack, including the incidental exterior storage of hay, packaged feed and related bulk feed products on site <sup>(4)</sup>	-	P	P	P	P
17. Hotels and motels	-	P	P	P	P
18. Kiosks for key shops, film drops in parking lots	SUP	SUP	SUP	SUP	SUP
19. Nurseries	-	P	P	P	P
20. Parking lots/structures	P	P	P	P	P
21. Pawn shops	-	P	P	-	P
22. Recycling facilities for reusable domestic materials					
a. Reverse vending machines	-	P	P	P	P
b. Recycling Collection Point less than 500 sq ft	-	P	P	P	P
c. Recycling Collection Point over 500 sq ft	-	SUP	SUP	SUP	SUP
d. Recycling Center	-	-	CUP	-	-
23. Restaurants (not drive thru or drive in)	P	P	P	P	P
24. Services, such as barber/beauty, repair, laundry	-	P	P	P	P
25. Spiritualist readings or astrological forecasting	-	P	P	-	P
26. Storage yard/facilities, including limited to boats, RV's, trucks, mini storage and equipment/supplies	-	CUP	CUP	-	CUP
27. Studios, such as dance and photo	P	P	P	P	P
28. Swap Meets					
Indoor	-	P	P	-	P
Outdoor	-	CUP	CUP	-	CUP
29. Thrift or second hand stores	-	P	P	-	P
30. Transportation facilities, train, bus and taxi depots, not including office only uses	-	CUP	CUP	CUP	CUP
31. Trucking facilities such as:					
a. Truck terminals	-	-	CUP	CUP	-
b. Truck yards	-	-	CUP	-	-
c. Truck repair	-	-	CUP	-	-
32. Registered vehicle sales/rental including boats, trailers and Campers	-	CUP	CUP	CUP	CUP
33. Outdoor sale/rental of farm and large construction equipment and small equipment	-	SUP	SUP	SUP	SUP
34. New construction of outdoor storage.	-	SUP	SUP	SUP	SUP
35. Vocational and business trade schools					
a. Shop related	-	-	SUP	-	-
b. All other	P	P	P	P	P

**D. Public and Semi-Public Uses**

TYPE OF USE <sup>(1)</sup>	DISTRICT <sup>(2)</sup>				
	O-P	C-G	C-S	C-R	C-V
1. Religious institutions <sup>5</sup>	CUP	-	-	-	-
2. Convalescent facilities and hospitals	SUP	SUP	SUP	SUP	SUP
3. Educational institutions	SUP	SUP	SUP	SUP	SUP
4. Libraries and museums, public or private	P	P	P	P	P
5. Private and public clubs and lodges, including YMCA, YWCA and similar youth groups	CUP	-	-	-	-
6. Government Facilities	CUP	CUP	CUP	CUP	CUP
7. Public utility installations, other than offices	CUP	CUP	CUP	CUP	CUP
8. Places of Assembly <sup>5</sup>	CUP	-	-	-	-

**E. Accessory Uses**

1. Antennas ( <i>Telecommunications facilities shall be subject to Chapter 9.77 of this Code.</i> )					
a. Commercial Antennas	CUP	CUP	CUP	CUP	CUP
b. Non-Commercial Antennas under 35' in height	P	P	P	P	P
c. Non-Commercial Antennas over 35' in height	SUP	SUP	SUP	SUP	SUP
d. Ham radio	P	P	P	P	P
2. Water Storage tanks					
less than 5,000 gallons	P	P	P	P	P
more than 5,000 gallons	SUP	SUP	SUP	SUP	SUP
3. Liquid, petroleum or Gas (LPG) Tanks not exceeding 200 gallons	P	P	P	P	P
4. Liquid, petroleum or Gas (LPG) Tanks greater than 200 gallons or flammable tanks up to 2,500 gallons	CUP	CUP	CUP	CUP	CUP
5. Overnight commercial vehicle parking for vehicles not related to the on-site use and which does not reduce available parking spaces during business hours	-	-	SUP	-	-

**F. Manufacturing/Production/Wholesale Uses**

1. All uses in Table 9.45.030-A (Sections A-G) where conducted within a completely enclosed building, except for accessory outdoor storage	-	-	P	-	-
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- (1) All uses shall be conducted within a completely enclosed building unless the use is specifically permitted in this Chapter as an outdoor use or the outdoor use is specifically approved through a Conditional Use Permit or Special Use Permit.
- (2) CUP: Conditional Use Permit  
P: Permitted Uses  
SUP: Special Use Permit  
“-“ Denotes uses are prohibited
- (3) Fees Waived

- (4) The incidental exterior storage of hay, packaged feed and related bulk feed products when associated with a Feed and Tack business is permitted and may be located anywhere on site to the rear of the leading edge of the building on said site or behind the required street side-yard setback area. Said stored hay, packaged feed and related bulk feed products need not be screened from view and may be stacked to a height not to exceed ten (10) feet.
- (5) Regulations for Churches and Places of Assembly in Subsection 9.29.050 shall apply.

**Section 13.** Amend Subsection “E. Services”, “F. Commercial Uses”, “G. Public and Semi-Public Uses” and “E. Accessory Uses” of Section 9.45.030 “Permitted Uses” of Chapter 9.45 “Industrial Districts” of the Town of Apple Valley Development Code to read as follows:

**9.45.030 Permitted Uses**

If a proposed use is not listed in this Section, the Director shall, upon written request and in accordance with Section 9.05.070, *Similar Uses*, of this Code, review the proposed unlisted use. Based on the characteristics of the proposed use, the "Standard Industrial Classification Manual" and other available resource material, the Director may determine that the proposed unlisted use is equivalent in nature and intensity to a listed use. The proposed use shall then be treated in the same manner as the equivalent listed use in determining where it can be located, what permits are required and what standards affect its establishment if the findings required in Section 9.05.070, *Similar Uses*, of this Code, can be made.

**ABBREVIATIONS**

I-L	Light Industrial
I-G	General Industrial
I-RE	Resource Extraction
I-P	Planned Industrial

The uses listed in Table 9.45.030-A shall be allowed in the Industrial Districts as indicated in the column beneath each district as defined below and review authority explained in Section 9.11.020, Table 9.11.020.

- CUP: Conditional Use Permit, subject to Conditional Use Permit process, Planning Commission review
- SUP Special Use Permit
- P: Permitted uses
- SM: Surface mining permit, requires Town Council review
- "-": Denotes those uses that are prohibited

The Conditional Use Permit process is detailed in Chapter 9.16 and the Development Permit process is detailed in Chapter 9.17 of this Code.



The uses listed in Table 9.45.030-A, below, apply to applications for expansion, tenant improvements, change of occupancy, or new development.

**TABLE 9.45.030-A PERMITTED USES**

TYPE OF USE <sup>(1)</sup>	DISTRICT <sup>(2)</sup>			
	I-L	I-G	I-P	I-RE <sup>(3)</sup>
<b>A. Residential Uses</b>				
1. Caretakers residence	SUP	SUP	SUP	SUP
2. Emergency shelters/transitional housing <sup>(4)</sup>	-	-	SUP	-
<b>B. Agricultural Uses</b>				
1. Animal grazing or raising, commercial or noncommercial, on vacant property, minimum of two and one-half(2 <sup>1</sup> / <sub>2</sub> ) acres lot size	-	-	-	P
2. Farm animal projects, accessory to a nonconforming residence	P	P	P	P
3. Farms or ranches for orchards, tree crops, field crops, truck or flower gardening, growing of nursery plants and the sale of agricultural products	P	P	-	P

- 
- (1) All uses shall be conducted within a completely enclosed building unless the use is specifically permitted in this Chapter as an outdoor use or is specifically approved through a Conditional Use Permit or Special Use Permit.
  - (2) CUP: Conditional Use Permit  
P: Permitted uses  
SUP: Special Use Permit  
SM: Surface Mining Permit, requires Town Council review  
"-": denotes uses are prohibited
  - (3) Industrial activities other than mining or mineral extraction are permitted only after the site has been mined and the land reclaimed. Vacant land not previously used for mining may be used on an interim basis with approval of a Conditional Use Permit provided that such use does not preclude, in any way, future mining or mineral extraction operations.
  - (4) Fees waived.

**C. Manufacturing and Production Uses**

1. Assembly, manufacturing, compounding, or treatment of articles or merchandise from previously prepared materials such as, but not limited to canvas, cellophane, cloth, cork, felt, fiber, fur, glass, leather, metals, paper (no milling), precious or semi-precious stones, plaster, plastics, rubber, synthetics, shells, textiles, tobacco, wood, and yarns; novelty items (not including fireworks or other explosive type items), electrical appliances and motors, electronic items, precision instruments, medical and dental instruments, timing and measuring instruments, audio machinery; visual machinery; food, cosmetics, drugs, perfumes, toiletries, soap (not including refining or rendering of fats or oils) and research and testing.	P	P	P	-
2. Bottling plants	P	P	P	-
3. Cement and asphalt manufacturing and products	-	CUP	-	CUP
4. Fruit and vegetable packing houses	P	P	-	-
5. Laboratories, including chemical, dental, electrical, optical, mechanical and medical	P	P	P	-
6. Mining	-	-	-	SM
<b>TYPE OF USE</b>	<b>DISTRICT</b>			
	<b>I-L</b>	<b>I-G</b>	<b>I-P</b>	<b>I-RE</b>
7. Outdoor manufacturing	CUP	CUP	-	CUP
8. Production of entertainment/educational media	P	P	P	-

**D. Storage and Wholesale Trades**

1. Vehicle fleet storage, impound lot	-	SUP	-	-
2. Commercial antennas and telecommunication facilities.	CUP	CUP	CUP	CUP
Non-commercial antennas 35 feet or less	P	P	P	-
Non-commercial antennas over 35 feet	SUP	SUP	SUP	-
3. Equipment storage, sales, rentals	P	P	P	P
4. Storage yards/facilities	P	P	P	P
5. General warehousing and distribution	P	P	P	-
6. Trailer, truck or bus terminal	SUP	SUP	-	-

**E. Services**

1. Administrative, professional and general offices	P	P	P	-
2. Animal care facilities	P	P	SUP	-
3. Automotive services including motorcycles, boats, motorhomes, trailers and campers:				
a. Gasoline Stations and/or Carwash	P	P	SUP	-
b. Major repairs, including engine work, painting, body work and upholstery.	P	P	CUP	-
c. Minor repairs including such as smog check, tune-ups, tires brakes, batteries and mufflers.	P	P	SUP	-
4. Services such as barber, beauty, repair, copying	P	-	P	-
5. Cleaning and dyeing plant	-	CUP	-	-
6. Administrative and professional offices	P	P	P	-
7. Distributors, showrooms	P	P	P	-
8. General printing and lithography	P	P	P	-

9. Recycling facilities for reusable domestic materials:				
a. Reverse vending machines	P	P	P	P
b. Recycling Collection Points less than 500 sq ft	P	P	P	-
c. Recycling Collection Points greater than 500 sq ft	SUP	SUP	SUP	-
d. Recycling Centers	CUP	CUP	-	-
e. Yard waste composting facilities, outdoors	CUP	CUP	-	-
f. Recycling Plants	-	CUP	-	-
10. Transportation facilities, train, bus and taxi depots or terminals	CUP	CUP	CUP	-
11. Trucking Facilities	CUP	CUP	CUP	-
<b><i>F. Commercial Uses</i></b>				
1. Retail commercial, when incidental to a permitted or conditional use and when goods offered for sale are manufactured, produced or assembled on the premises, not occupying more than twenty-five (25) percent of the gross floor area. Sale of accessory merchandise is also permitted.	P	P	P	-
2. Convenience stores, with or without gasoline sales	P	P	SUP	-
	<b>DISTRICT</b>			
<b>TYPE OF USE</b>	<b>I-L</b>	<b>I-G</b>	<b>I-P</b>	<b>I-RE</b>
3. Home improvement centers:				
a. Material stored and sold within enclosed buildings	P	P	P	-
b. Outdoor storage of material such as lumber and other building material	P	P	-	CUP
4. Hotels, motels and convention centers	CUP	CUP	CUP	-
5. Nurseries and garden supply stores, including outdoor display of plants	P	P	P	CUP
6. Restaurants				
a. Not drive-in or drive through	P	P	P	-
b. Drive through	SUP	SUP	SUP	-
7. Swimming pool supplies	P	P	P	-
8. Vehicle sales and rental, including boats, trailers, campers, farm/construction equipment	SUP	SUP	SUP	-
<b><i>G. Public and Semi-Public Uses</i></b>				
1. Child day care center	SUP	SUP	SUP	-
2. Government Facilities	CUP	CUP	CUP	-
3. Places of Assembly	-	-	-	-
<b><i>H. Accessory Uses</i></b>				
1. Water Storage tanks:				
less than 5,000 gallons	P	P	P	P
more than 5,000 gallons	SUP	SUP	SUP	SUP
2. Liquid, petroleum or Gas (LPG) Tanks not exceeding 200 gallons	P	P	P	P
3. Liquid, petroleum or Gas (LPG) Tanks greater than 200 gallons or flammable tanks up to 2,500 gallons	CUP	CUP	CUP	CUP

4. Overnight commercial vehicle parking for vehicles not related to the on-site use which does not reduce available parking spaces during business hours	SUP	SUP	-	P
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**Section 14. Invalidation.** The amendment by this Ordinance of Title 9 “Development Code” of the Town of Apple Valley Municipal Code as previously in effect, or of any other prior enactment, shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to such Title or other enactment while the same was in effect.

**Section 15. Notice of Adoption.** The Town Clerk of the Town of Apple Valley shall certify to the adoption of this ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code of the State of California.

**Section 16. Effective Date.** This Ordinance shall become effective thirty (30) days after the date of its adoption.

**Section 17. Severability.** If any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Ordinance are declared to be severable.

Adopted by the Town Council and signed by the Mayor and attested by the Town Clerk this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Honorable Rick Roelle, Mayor

ATTEST:

\_\_\_\_\_  
Ms. La Vonda M-Pearson, Town Clerk

Approved as to form:

Approved as to content:

\_\_\_\_\_  
Mr. John Brown, Town Attorney

\_\_\_\_\_  
Mr. Frank Robinson, Town Manager